City of Cincinnati

An Ordinance No. 84

CMZ

- 2011

MODIFYING Chapter 203, "Employees' Retirement System," of the Cincinnati Municipal Code, by enacting new Sections 203-1-S5 and 203-6; AMENDING Sections 203-1-A3, 203-1-M1, 203-8, 203-11, 203-19, 203-27A, 203-29, 203-33, 203-35, 203-45, 203-47, 203-56, 203-111, 203-119, 203-125, and 203-129; and REPEALING Sections 203-1-R2 and 203-39 to provide for changes in retirees' benefits, including the method of calculating benefits, and the applicable interest rate and method for calculating the cost of living adjustments.

WHEREAS, the increases in the Cincinnati Retirement System pension accrued liabilities continue to outpace the growth in plan assets due to challenging financial market events over the past ten years, and improvements in life expectancy rates; and

WHEREAS, the current economic climate and the current budgetary issues facing the City of Cincinnati and the Cincinnati Retirement System require appropriate changes to the pension benefits for retirees and employees; and

WHEREAS, it is critical to implement appropriate revisions to the pension benefits of the Cincinnati Retirement System in order to ensure the system becomes and remains fiscally sound and solvent for current City retirees as well as for active City employees and future City employees; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Sections 203-1-S5 and 203-6 are hereby enacted to read as follows:

Sec. 203-1-S5. - Service Retirement Allowance.

"Service retirement allowance" shall mean the sum of the annuity and the pension.

Sec. 203-6. – Service Purchase Administrative Provisions.

(a) For purposes of service purchased under Sections 203-7, 203-7-A, 203-7-B, 203-7-C, and 203-8, service shall be credited as it is funded. If the member is permitted to pay on an installment basis and fails to complete the payments or becomes unable to complete the payments due to termination, death, or disability, the system shall credit the member with the service which is funded as of the date of termination, death, or disability.

- (b) Effective on and after July 1, 2011, members who purchase service under Sections 203-7, 203-7-A, 203-7-B, 203-7-C, and 203-8 shall be credited with service in the following manner:
 - (i) For members in Group C, service purchased prior to the date of retirement shall be credited toward the service retirement allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33.
 - (ii) For members in Group D, service purchased:
 - (A) prior to July 1, 2011, or on or after July 1, 2011 as a result of a service purchase agreement in effect before April 15, 2011, shall be credited toward the service retirement allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33;
 - (B) on or after July 1, 2011, as a result of a service purchase agreement in effect on or after April 15, 2011 and prior to the date of retirement shall be credited toward the service retirement allowance formula under Section 203-33(h)(iv)(B).
 - (iii) For members in Group E, service purchased:
 - (A) prior to July 1, 2011, or from July 1, 2011 through December 31, 2013 as a result of a service purchase agreement in effect before April 15, 2011, shall be credited toward the service retirement allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33;
 - (B) on or after July 1, 2011 as a result of a service purchase agreement in effect on or after April 15, 2011 and prior to the date of retirement shall be credited toward the service retirement allowance formula under Section 203-33(h)(iv)(B).
 - (iv) For members in Group F, service purchased:
 - (A) prior to July 1, 2011, or after July 1, 2011 through December 31, 2013 as a result of a service purchase agreement in effect before April 15, 2011, shall be credited toward the service retirement allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33;
 - (B) on or after July 1, 2011 as a result of a service purchase agreement in effect on or after April 15, 2011 and prior to the date of

retirement shall be credited toward the service retirement allowance formula under Section 203-33(h)(iv)(B).

(v) For members in Group G, service credited prior to the date of retirement shall be credited toward the service retirement allowance formula under Section 203-33(h)(v).

Section 2. That Section 203-1-A3 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-1-A3. - Average Highest Compensation.

- (a) For members who are entitled to a service retirement allowance under the provisions of Section 203-33(b) or Section 203-33(g), "average highest compensation" shall mean the average annual compensation or salary paid to a member during the member's most highly compensated period of three the designated number of consecutive years of service, or if the member has had less than three such number of consecutive years of service, then the average annual compensation, pay or salary paid to the member during the total years of the member's service.
 - (i) For members in Groups A, B, C and D as defined in Section 203-1-M1, with respect to benefits earned at any time, the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be three.
 - (ii) For members in Group E as defined in Section 203-1-M1, with respect to benefits earned on or before December 31, 2013, the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be three, and with respect to benefits earned on or after January 1, 2014, the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be five.
 - (iii) For members in Group F as defined in Section 203-1-M1, with respect to benefits earned on or before June 30, 2011, the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be three, and with respect to benefits earned on or after July 1, 2011, the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be five.
 - (iv) For members in Group G as defined in Section 203-1-M1, with respect to benefits earned on or after January 1, 2010 the designated number of consecutive years of service applicable for purposes of determining the average highest compensation shall be five.

Except as provided in subsection (b) below, in computing the "average highest compensation" for such members, neither the overtime pay, nor payments for compensatory time, and nor lump sum terminal leave pay for such employees shall not be included for any regular and permanent employee, nor shall earnings from any additional part-time employment in city service be included, and no deductions shall be made from such earnings as contributions to the retirement fund. Longevity, sick-leave buy back, shift differential, and special assignment payments shall be included, and deductions shall be made from such earnings as contributions to the retirement fund.

(b) In computing the "average highest compensation" for members who are entitled to a service retirement allowance under the provisions of Section 203-33(e d), the overtime pay of any regular and permanent employee, payments for compensatory time, lump sum terminal leave, longevity, sick-leave buy back, shift differential, and special assignment for such employees shall be included, and deductions shall be made from such earnings as contributions to the retirement fund; but earnings of any regular and permanent employee from any additional part-time employment in city service shall be excluded, and no deductions shall be made from such earnings.

For such members, the "average highest compensation" shall include that portion of their lump sum terminal leave pay which could be accumulated in their final three years of active service used for purposes of determining the average highest compensation, with the exception that the amount of the lump sum payment for unused sick leave to be included in the final average salary shall not exceed an amount equal to compensation at the hourly rate last earned by a member for 312 hours. The normal employee contribution shall be based upon and deducted from the total lump sum payment.

For such members who are in Group E, with respect to compensation earned on or before December 31, 2013, the provisions of subsection (a) herein shall apply. For such members, with respect to compensation earned on or after January 1, 2014, the provisions of subsection (b) herein shall apply.

For such members who are in Group F, with respect to compensation earned on or before June 30, 2011, the provisions of subsection (a) herein shall apply. For such members, with respect to compensation earned on or after July 1, 2011, the provisions of subsection (b) herein shall apply.

The provisions of this section (b) shall not apply to employees hired before July 12, 1998 who have elected, either affirmatively or by default, to receive a service retirement allowance that does not include such payments.

(c) For members who retired prior to January 1, 1976, "average highest compensation" shall mean the amount determined in accordance with the definition of "average highest compensation," which was in effect and applicable to the member on the date of the member's retirement.

- (d) The compensation limitations of this division subsection (d) shall apply to members who did not become a member in this Retirement System prior to January 1, 1996. For such members, when calculating the member's most highly compensated three consecutive years of service, the compensation or salary taken into account for a year of service which is included in such calculation shall not exceed the IRC Section 401(a)(17)(B) limit that is in effect for the calendar year in which the applicable year of service begins. The IRC Section 401(a)(17)(B) limit is \$150,000, as adjusted for increases in the cost of living for years beginning after January 1, 1994.
- (e) In computing the "average highest compensation" any lump sum payments made to or on behalf of a member for court ordered vacation accumulation settlement compensation arising out of O.R.C. Section 9.44 vacation rate accrual shall not be included beyond the maximum vacation accumulation authorized by personnel policy or union contract. The term "court ordered vacation accumulation settlement compensation" shall mean any vacation accrual resulting from a court order to compensate members for O.R.C. Section 9.44 vacation accrual rate accumulation not previously granted.
- (f) When an employee, by reason of physical or other disability, is transferred to an employment classification in which the employee receives a lower rate of pay, the employee may elect to continue contributions on the basis of the rate of pay before transfer.

Similarly, when the salary of an employee within a particular class is temporarily reduced so as to address critical funding issues, including, but not limited to, Holiday Pay Savings, affected employees may also elect to continue contributions on the basis of the rate of pay before the salary reduction was implemented with the amount of the additional payment calculated to include both the employee's portion of the contribution and the City's portion of the contribution to the Retirement System. Said additional contributions to the Retirement System shall either be completed as an increased contribution each biweekly pay period during the period of temporary salary reduction or the employee may elect to make a one-time lump sum payment prior to retirement. If the temporary salary reduction was in effect prior to the institution of this Section, then the employee may make a lump sum "catch-up" payment to cover the pay periods prior the institution of the biweekly contributions and then make biweekly contributions for the remainder of their time prior to retirement.

In such cases, the average highest compensation shall be figured as though the employee had continued at the former rate of pay. Provided, however, that if by reason of amendment of the compensation schedules, the annual compensation earnable by the employee in the former position would have been reduced, the average highest compensation shall be figured on the basis of such reduced compensation and the contributions reduced accordingly.

- (g) The provisions of this subsection (g) shall apply to determine the average highest compensation of a member who has State Retirement System Service Credit if either of the following situations is applicable:
 - (i) The member does not have three the applicable number of years of continuous service with the city at the time of his retirement or other termination of service with the city, or
 - (ii) The member (or, in the event of the death of the member, his beneficiary) elects to have the provisions of this paragraph (g) apply.

The average highest compensation of any such member shall be determined under the foregoing provisions of this Section, based on both (i) his years of service and compensation with the employers under this chapter, and (ii) his years of State Retirement System Service Credit and Prior State Retirement System Compensation. Prior State Retirement System Compensation shall be taken into account for purposes of determining the member's average highest compensation under this Retirement system only to the extent that such compensation otherwise would be considered compensation under the foregoing provisions of this Section.

(h) If a member is subject to the provisions of paragraph (g) because he does not have three the applicable number of years of continuous service at the time of his retirement or other termination of service with the city, the member or, in the event of the death of a member, his beneficiary shall provide to the Board evidence of his or her Prior State Retirement System Compensation. Evidence of the member's Prior State Retirement System Compensation shall include evidence of the amount thereof that would be considered compensation under the forgoing provisions of this Section. A decision of the Board as to whether evidence provided by a member or his beneficiary is sufficient to determine the amount of his Prior State Retirement System Compensation shall be final.

No pension, <u>service</u> retirement allowance or other benefit (collectively referred to herein as a "Benefit") shall be payable hereunder to the member or the member's beneficiary unless and until evidence of Prior State Retirement System Compensation is provided to the satisfaction of the Board. Nevertheless, the member or beneficiary shall be entitled to receive a back payment equal to the Benefits that would have been paid prior to the date that the Board approves payment of a Benefit based on evidence of Prior State Retirement System Compensation submitted within six months of the date that payment of a Benefit would have commenced to the member or beneficiary (without regard to the provisions of this paragraph). In the sole discretion of the Board, and for good cause shown, the Board may extend the original six month deadline by a maximum of an additional six months. Any such back payment of Benefits shall be made without interest.

If a member or beneficiary does not satisfy the requirement to provide evidence of Prior State Retirement System Compensation within the applicable deadline, the member or beneficiary shall still be permitted to obtain payment of such Benefit by satisfying such requirement; provided, however, that any such Benefit shall be payable only prospectively, and only after the Board has approved payment of such Benefit based on the evidence of Prior State Retirement System Compensation.

(i) If a member or beneficiary wishes to elect the application of this paragraph (g), the member or beneficiary must provide to the Board evidence of the Prior State Retirement System Compensation the member earned with his employers under the State Retirement System. Evidence of the member's Prior State Retirement System Compensation shall include evidence of the amount thereof that would be considered compensation under the forgoing provisions of this Section. A decision of the Board as to whether evidence provided by a member or his beneficiary is sufficient to determine the amount of his Prior State Retirement System Compensation shall be final.

Until such time as the member or beneficiary provides the required evidence of Prior State Retirement System Compensation, any Benefit payable to the member or beneficiary shall be based solely on the compensation the member earned with the employers under this retirement system. Nevertheless, if a Benefit commences to a member or beneficiary and the member or beneficiary provides evidence of Prior State Retirement System Compensation within six months of the date that the Benefit commenced, the member or beneficiary shall be entitled to receive a back payment equal to the Benefits that would have been paid prior to the date that the Board approves payment of a Benefit based on the evidence of the member's Prior State Retirement System Compensation. In the sole discretion of the Board, and for good cause shown, the Board may extend the original six month deadline by a maximum of an additional six months. Any such back payment of Benefits shall be made without interest.

If a member or beneficiary does not satisfy the requirement to provide evidence of Prior State Retirement System Compensation within the applicable deadline, the member or beneficiary shall never be permitted to obtain payment of a Benefit based upon the amount of the member's Prior State Retirement System Compensation.

Section 3. That Section 203-1-M1 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-1-M1. - Member.

"Member" shall mean any person included in the membership of the retirement system as provided in Section 203-3. Effective on and after July 1, 2011, a member shall be designated a member in one of the following groups. For purposes of determining the group in which a member is placed, years of service will include only service earned

through June 30, 2011, or service credited pursuant to a service purchase through June 25, 2011.

- (a) "Group A, B" shall mean any member who has retired under the Plan prior to July 1, 2011;
- (b) "Group C" shall mean any member who, as of June 30, 2011, was an active member or a terminated vested member and has either (i) completed at least thirty (30) years of service, or (ii) reached age sixty (60) and completed at least five (5) years of service, regardless of the member's retirement date;
- (c) "Group D" shall mean any member who, as of June 30, 2011, was either:
 - (i) an active member and who, during the period beginning on July 1, 2011 and ending on December 31, 2013, both:
 - (A) retires, and
 - (B) either
 - (I) completes at least thirty (30) years of service, or
 - (II) reaches age sixty (60) and completes at least five (5) years of service; or
 - (ii) a terminated vested member and who, regardless of the member's retirement date, during the period beginning on July 1, 2011 and ending on December 31, 2013, either:
 - (A) completes at least thirty (30) years of service, or
 - (B) reaches age sixty (60) and completes at least five (5) years of service.
- (d) "Group E" shall mean any member who, as of June 30, 2011, was an active member and who:
 - (i) during the period beginning on July 1, 2011 and ending on December 31, 2013, either:
 - (A) completes at least thirty (30) years of service, or
 - (B) reaches age sixty (60) and completes at least five (5) years of service; and
 - (ii) retires on or after January 1, 2014.

- (e) "Group F" shall mean any member who, as of June 30, 2011, was an active member and who was hired prior to January 1, 2010, and who is not in Groups AB through E.
- (f) "Group G" shall mean any member who was first hired on or after January 1, 2010, or a member rehired on or after January 1, 2010, who has fewer than five years of service as of June 30, 2011.

Section 4. That Section 203-8 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-8. - State Retirement System Service Credit Transfer.

Subject to approval by the city council, the Board of Trustees may enter into one or more transfer agreements with the State Retirement Systems to permit members of the Retirement System to elect to either (i) obtain State Retirement System Service Credit under this Retirement System that is attributable to a transfer of the member's service credit under a State Retirement System, or (ii) obtain additional service credit under a State Retirement System that is attributable to a transfer of all or part of the member's creditable service under this Retirement System.

Any such transfer agreement between the Board of Trustees and a State Retirement System shall comply with applicable state law. No transfer agreement shall become effective until the city council has approved it. Likewise, no amendment of a transfer agreement or action by the Board of Trustees terminating such agreement shall become effective until the city council has approved it. Notwithstanding the foregoing, any transfer agreement may have retroactive effect to the extent provided in the agreement, provided that the agreement is approved by city council.

The <u>service</u> retirement allowance or other benefits that a member is to be provided with respect to a member's State Retirement System Service Credit shall be determined solely in accordance with the provision of this Retirement System, as amended from time to time; and no transfer agreement with any State Retirement System may grant any additional benefits to a member. Nor may a transfer agreement with a State Retirement System restrict or limit the power of the legislative authority of the city to amend the provisions of this Retirement System at any time and in any manner that is otherwise permitted by law. Any transfer agreement with a State Retirement System shall permit the agreement to be terminated, subject only to reasonable notice or other reasonable restrictions on such right of termination as may be part of the transfer agreement.

If a member elects to obtain additional service credit under a State Retirement System that is attributable to creditable service under this Retirement System, the member's creditable service and accumulated contributions under this Retirement System shall be reduced in an amount determined by the Board of Trustees; and if the member continues to retain any creditable service and accumulated contributions under this Retirement System, such member's remaining entitlement to a <u>service</u> retirement allowance or other

benefits shall be determined solely in accordance with the provisions of this Retirement System.

All amounts that are paid to the Retirement System pursuant to a transfer agreement shall be held as part of the Retirement System trust fund that has been established hereunder. The Board of Trustees shall not be required to separately invest any such amounts or to separately account for any such amounts, except to the extent that separate accounting is required hereunder to properly account for the accumulated contributions of a member.

If the Board of Trustees is required to transfer funds to a State Retirement System, such transfers shall be made directly from the Retirement System fund to the State Retirement System; and the Board of Trustees shall reduce the accumulated contributions of a member or the Board of Trustees shall determine is appropriate.

Once a transfer agreement has become effective, in accordance with Section 203-133, the Board of Trustees shall have the power to administer such agreement. To the extent not inconsistent with the provisions of this Retirement System and the terms of a transfer agreement, in the administration of a transfer agreement, the Board may address the following points:

- (a) The members who are entitled to elect a transfer of service credit,
- (b) the amount of State Retirement System Credit to be credited to a member who elects to transfer service credit from a State Retirement System,
- (c) the amount of creditable service that a member may transfer to a State Retirement System,
- (d) a member's payment method relating to any such transfers, and
- (e) a requirement that a member complete a transfer application form and acknowledgment of the effect of the transfer.

Notwithstanding the foregoing, no member or former member who has an outstanding loan shall be permitted to transfer service credit to a State Retirement System under this Section unless and until such loan is repaid in full, with interest.

Section 5. That Section 203-11 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-11. - Termination of Membership.

Membership in the retirement system shall terminate as follows:

- (a) On the death of the member;
- (b) On the member's becoming a beneficiary;

- (c) If a member, during any period of six consecutive years after last becoming a member, shall be absent from service more than five years; provided that this shall not apply: 1) where the member retires under circumstances entitling the member to a <u>service</u> retirement allowance payable at some future date; or 2) where such member returns to city service and reenrolls in the retirement system, such member may be granted service credit for the previous period of membership in the retirement system provided the accumulated contributions for such previous period of membership were never withdrawn;
- (d) If a member after leaving the city service shall withdraw accumulated contributions.

Section 6. That Section 203-19 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-19. - Service Creditable.

Service creditable at retirement, on which the <u>service</u> retirement allowance of a member shall be based, shall consist of membership service, prior service, if any shown by a prior service certificate, in full force and effect, and, for terminated vested members, service equal to unused sick leave, not in excess of 90 days. The board shall not credit as service for any period of more than one month's duration during which the employee was absent without pay. The board shall have power to add to the service creditable to any member the service in a similar capacity rendered for the government of territory annexed to the city.

Section 7. That Section 203-27A of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-27A. - USERRA Compliance.

The provisions of this section shall apply if a member is absent from employment because of service in the "uniformed services" and is reemployed pursuant to the provisions of Chapter 43 of Title 38 of the United States Code (the Uniformed Services Employment and Reemployment Rights Act "USERRA").

- (a) If the member is not entitled to have the period of absence treated as city employment service pursuant to Section 203-27, the period of uniformed service shall be considered service as an employee (as defined in Sections 203-1-E and 2031-S) for all purposes of this chapter, other than the purposes described in paragraph (b) below.
- (b) If the member is not entitled to have the period of absence treated as city employment service pursuant to Section 203-27, for purposes of determining the amount of a member's <u>service</u> retirement allowance under Section 203-33(a)(2),

or the amount of disability retirement allowance of a member under Section 203-41(a), to the extent that the member satisfies the contribution requirements of this paragraph (b), the member shall be entitled to membership service and creditable service, respectively, for the period of absence. To obtain such membership service and creditable service, the member must contribute to the Retirement System an amount equal to the payroll deductions that the member would have been required to make pursuant to Section 203-73, determined as if the member had been continuously employed during his or her absence and had received compensation at a rate of pay determined in a manner consistent with IRC Section 414(u)(7). Payment by the member must be made within a period of time which begins on the date of the member's reemployment and ends on the earlier of (i) five years, or (ii) three times the period of absence. If the member pays less than the full amount of member contributions required for the period of absence, the board shall provide partial membership service and partial creditable service for such purposes, based on the amounts paid, beginning with the original date of absence. Payments may be made by payroll deduction if approved by the board.

- (c) If the reemployed member has previously withdrawn his or her accumulated contributions, the member shall be entitled to membership service for his or her employment prior to the uniformed services absence if repayment is made in accordance with Section 203-29.
- (d) If a member is entitled to membership service for all or part of a period of uniformed service absence pursuant to paragraph (b) above, for purposes of determining the member's average highest compensation under Section 203-1-A3, the member shall be deemed to have earned compensation at the rate described above in paragraph (b) for any period of absence for which the member pays the employee contributions required under paragraph (b). If a member is entitled to membership service for all or part of a period of uniformed service absence pursuant to Section 203-27, for purposes of determining the member's average highest compensation under Section 203-1-A3, the member shall be deemed to have earned compensation at the rate described above in paragraph (b) for any period of absence which is determined to be membership service under Section 203-27.
- (e) Irrespective of whether, or to what extent, a member is entitled to membership service and creditable service for a period of uniformed services absence, under Section 203-1-A3, for purposes of determining the member's most highly compensated period of three consecutive years of service, if a member does not have deemed compensation attributable to a period of uniformed services absence (because the member has not made payment of all of the required member contributions as is provided above in paragraph (b)), that period of military absence shall be disregarded. Thus, a member's periods of membership service (or deemed membership service) preceding the member's date of reemployment shall be deemed to be consecutive periods of service for purposes of Section 203-1-A3.

- (f) Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service are governed by IRC Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994.
- (g) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United State Code), to the extent required by IRC Section 401(a)(37), survivors of a member of the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.
- (h) Beginning January 1, 2009, to the extent required by IRC Sections 3401(h) and 414(u)(2), an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in chapter 43 of title 38, United State Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation, but contributions attributable to such differential wage payments shall not be made unless and until the member returns to active employment and makes up the missed contributions. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 8. That Section 203-29 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-29. - Persons Reentering Service.

Any member who has left or leaves the city service by reason of an official layoff, and withdrew or withdraws accumulated contributions, upon reentering the city service and becoming a member, shall be entitled to membership credit for the former period of membership immediately upon payment into the fund of a sum of money equal to the amount of accumulated contributions withdrawn at the termination of the former period of service, plus interest at 4 percent per annum compounded annually thereon from the date of withdrawal until the date of payment. For any such payment, or portion of such payment, that is received by the Retirement System on or after July 1, 2011, the membership credit for the former period of membership that is attributable to such payment shall be treated in the same manner as membership service credit of a Group G member.

Any member who has left or leaves the city service for any reason other than official layoff, withdrew or withdraws accumulated contributions, and who reenters the city service and becomes a member shall be entitled to membership credit, except prior service credit, as defined in Section 203-1-P1, for the former period of membership when the member shall have completed eighteen months of service subsequent to the date of

reentry and pays into the fund the amount described in paragraph (a) or (b) below, as applicable.

- (a) The provisions of this paragraph (a) shall apply if there is a service credit transfer agreement in effect with one or more of the State Retirement Systems under Section 203-8. If so, the member shall pay:
 - (i) For each year of service to be repurchased, an amount equal to the member contributions previously paid by the member and refunded to the member for such year of service; plus
 - (ii) Interest calculated separately for each year of service dating from the year in which the service was originally earned.
 Unless otherwise specified by the Board, interest shall be calculated at the actuarial assumption rate of the Retirement System for the year in which the service credit was originally earned. The interest shall be compounded annually.
- (b) The provisions of this paragraph (b) shall apply if there is no service credit transfer agreement in effect with one or more of the State Retirement Systems under Section 203-8. If so, the member shall pay:
 - (i) A sum equal to the amount of accumulated contributions withdrawn at the termination of the former period of service;
 - (ii) Interest at 4 percent per annum compounded annually thereon from date of withdrawal until date of payment; and
 - (iii) An amount equal to 50 percent of the amount determined by the actuary to be necessary to be paid to fund the pension payable on account of the member's former period of service.

Notwithstanding the foregoing, the provisions of paragraph (b) shall apply to an employee who returned to membership status prior to February 19, 1965, and any such person need not pay the amount specified under clause (iii) of paragraph (e)(b).

If said member had a prior service certificate, and if at retirement membership subsequent to the date of reentry amounts to 10 years or more, the prior service certificate shall be reinstated upon proper application being made to the board.

Section 9. That Section 203-33 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-33. - Service Retirement Allowance; Vesting.

- (a) A member may be entitled to a service retirement allowance, as provided herein, after satisfying the applicable requirements set forth below:
 - (i) For a member in Group C, after reaching age 60 with 5 years of creditable service or with 30 years of creditable service regardless of age;

(ii) For a member in Group D, after reaching age 60 with 5 years of creditable service or with 30 years of creditable service regardless of age;

(iii) For a member in Group E:

- (A) after reaching age 60 with 5 years of creditable service or with 30 years of creditable service regardless of age, subject to a reduction of benefits earned on or after January 1, 2014, as specified in Section 203-33(h)(iii), or
- (B) after reaching age 60 with 30 years of creditable service or age 65 with 5 years of creditable service, without such reduction of benefits earned on or after January 1, 2014;

(iv) For a member in Group F:

- (A) after reaching age 60 with 5 years of creditable service or with 30 years of creditable service regardless of age, subject to a reduction of benefits earned on or after July 1, 2011, as specified in Section 203-33(h)(iv), or
- (B) after reaching age 60 with 30 years of creditable service or age 65 with 5 years of creditable service, without such reduction of benefits earned on or after July 1, 2011;
- (v) For a member in Group G, after reaching age 62 with 30 years of creditable service or age 67 with 5 years of creditable service.

Any member hired before January 1, 2010 may be entitled to a service retirement allowance, as provided herein, after reaching age 60 with 5 years of creditable service or with 30 years of creditable service regardless of age. Any member hired on or after January 1, 2010 may be entitled to a service retirement allowance as provided herein, after reaching age 65 with 5 years of creditable service or after reaching age 55 with 30 years of creditable service. The 5 years of creditable service required for a service retirement allowance after reaching such specified age shall only apply to persons who enroll or re-enroll in the retirement system on or after January 1, 1969.

A member having completed 5 years of creditable service on or after January 1, 1989, or in the case of a member who serves at the pleasure of the appointing authority, after completion of 5 years of creditable service on or after January 1, 1989, shall be entitled upon reaching the requisite age specified by this section to a service retirement allowance; provided, however, that the entire accumulated contributions of the member remain to the member's credit in the retirement system.

If said member has a retirement loan outstanding at the time of leaving service, the loan shall be paid in full prior to reaching age 65, or within one year of leaving city service, whichever comes first. If loan repayment is not as stipulated herein, the following options exist:

- (i) the member can have the balance of contributions refunded directly as specified in Section 203-57;
- (ii) the member can have the balance of contributions rolled over into another qualifying plan, including the Public Employees Retirement System as specified in Section 203-59;
- (iii) a member hired before January 1, 2010 having at least 25 years of service and being at least age 55, can take a reduced retirement as specified in Section 203-35 (a); a member hired on or after January 1, 2010 having at least 25 years of service and being at least age 60 can take a reduced retirement as specified in Section 203-35(b).

Application for retirement shall be made before the member leaves the service or within one year thereafter, except application may be made after said one year with the approval of the board of trustees.

- (b) The service retirement allowance described in subsection (c) shall apply for:
 - (i) persons hired on or after July 12, 1998,
 - (ii) persons who:
 - (A) were hired prior to July 12, 1998,
 - (B) retire after May 1, 1999, and
 - (C) in accordance with Ordinance Number 130-1999, elected by October 1, 1999 to be provided benefits under the formula described in this subsection (c).
 - (iii) persons who:
 - (A) in accordance with Ordinance Number 130-1999, elected by October 1, 1999 to be provided benefits under the formula described in subsection (e), and
 - (B) pursuant to the provision of paragraph (d) below, cease to be entitled to benefits under that paragraph.
- (c) The service retirement allowance described in this subsection (c) shall consist of:
 - (i) An annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement or in the case of a member who retired after 5 years, at the time of reaching age 60;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:

- (A) 2.50 percent of the average highest compensation multiplied by the number of years of membership service and number of years of Out of State and Federal Service Credit; and
- (B) For each year of a member's State Retirement System Service Credit, the lesser of 2.50 percent or member's State Retirement System Benefit Percentage for that year (as defined in paragraph (jm) below), multiplied by his average highest compensation; and
- (d) The service retirement allowance described in subsection (e) shall apply for persons who were hired prior to July 12, 1998, retire after May 1, 1999, and, in accordance with Ordinance Number 130-1999, have elected to be provided benefits under the formula described below. If a member has satisfied the foregoing requirements, the member shall nevertheless cease to have the provision of subsection (e) apply to determine his <u>service</u> retirement allowance; and shall instead have the provisions of subsection (c) applied to determine the amount of his <u>service</u> retirement allowance, if any of the following applies to the member:
 - (i) The member ceases to be a member prior to retirement and withdraws all of the member's accumulated contributions.
 - (ii) The member elects to transfer all of the member's accumulated contributions to a State Retirement System, as provided in Section 203-8 or otherwise.
 - (iii) The member ceases to be a member in service prior to retirement and does not have five or more years of creditable service at the time he ceases to be a member in service.
 - (iv) The member elects (or has ever elected) under the provisions of paragraph (i l) below, to have the provisions of subsection (c) above apply.
- (e) The service retirement allowance described in this subsection (e) shall consist of:
 - (i) An annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement, or in the case of a member who retired after 5 years, at the time of reaching age 60;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:
 - (A) 2.22 percent of the average highest compensation multiplied by the number of years of membership service; and
 - (B) For each year of a member's State Retirement System Service Credit, the lesser of 2.22 percent or member's State Retirement System Benefit Percentage for that year (as defined in paragraph († m) below), multiplied by his average highest compensation; and

- (f) The service retirement allowance described in subsection (g) shall apply for persons who were hired on or after January 1, 2010.
- (g) The service retirement allowance described in this subsection (g) shall consist of:
 - (i) An annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement, or in the case of a member who retired after 5 years, at the time of reaching age 65;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:
 - (A) 2.2 percent of the average highest compensation multiplied by the number of years of membership service; and
 - (B) For each year of a member's State Retirement System Service Credit, the lesser of 2.2 percent or member's State Retirement System Benefit Percentage for that year (as defined in paragraph (jm) below), multiplied by his average highest compensation.
- (h) Effective July 1, 2011, for retirements occurring on or after that date, all benefits shall be calculated as specified in this subsection (h).
 - (i) For members of Group C, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above.
 - (ii) For members of Group D, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above.
 - (iii) For members of Group E:
 - (A) with respect to benefits earned on or before December 31, 2013, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above, and
 - (B) with respect to benefits earned on or after January 1, 2014, the service retirement allowance shall consist of a pension equal to the sum of:
 - (I) 2.2 percent of the average highest compensation multiplied by the number of years of membership service up to and including 30 total years and 2.0 percent of the average highest compensation multiplied by the number of years of membership service in excess of 30 total years; and
 - (II) For each year of a member's State Retirement System

Service Credit, the lesser of the applicable percentage under subsection (B)(I) or member's State Retirement System Benefit Percentage for that year (as defined in paragraph (m) below), multiplied by his average highest compensation.

(vi) For members of Group F:

- (A) with respect to benefits earned on or before June 30, 2011, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above, and
- (B) with respect to benefits earned on or after July 1, 2011, the service retirement allowance shall consist of a pension equal to the sum of:
 - (I) 2.2 percent of the average highest compensation multiplied by the number of years of membership service up to and including 30 total years and 2.0 percent of the average highest compensation multiplied by the number of years of membership service in excess of 30 total years; and
 - Service Credit, the lesser of the applicable percentage under subsection (B)(I) or member's State Retirement System Benefit Percentage for that year (as defined in paragraph (m) below), multiplied by his average highest compensation.
- (v) For members of Group G, with respect to benefits earned on or after January 1, 2010, the service retirement allowance shall equal the sum of:
 - (A) 2.2 percent of the average highest compensation multiplied by the number of years of membership service up to and including 30 total years and 2.0 percent of the average highest compensation multiplied by the number of years of membership service in excess of 30 total years; and
 - (B) For each year of a member's State Retirement System Service Credit, the lesser of the applicable percentage under subsection (A) or member's State Retirement System Benefit Percentage for that year (as defined in paragraph (m) below), multiplied by his average highest compensation.
- (h i) The service retirement allowance for persons who retired prior to January 1, 1978, shall consist of the amount determined in accordance with the calculation formula in effect and applicable to the member at the time of the member's retirement.

- (i) In no event shall the service retirement allowance provided herein be greater than 90% of the average highest compensation for those members retiring after April 1, 1993. Average highest compensation, for those retiring on or after April 14, 1999, shall be calculated or recalculated in accordance with the provisions of Section 203-1-A3 contained herein, notwithstanding the provisions of Section 203-1-A3 contained in Ordinance No. 264-2000.
- (j k) In no event shall the service retirement allowance provided herein, exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 USCA 15, as amended.
- (k l) An employee whose service retirement allowance would be calculated as described in subsection (e) shall be permitted to make an election to have his or her service retirement allowance calculated as described subsection (c) if, according to the terms of the Fair Labor Standards Act (FLSA), the employee moves from the non-exempt status of being eligible for FLSA overtime pay, to the exempt status of not being eligible for FLSA overtime pay. Any such employee shall have 60 days from such change in FLSA status to make the election. Such election shall be irrevocable once made, regardless of future changes to the employee's FLSA status. An employee who elects to have his or her service retirement allowance based on the pension calculation formula described in subsection (c) herein, shall have his or her "average highest compensation" calculated in accordance with the corresponding provisions of Section 203-1-A3(a).
- (4 m) For purposes of this Section, a member's State Retirement System Benefit Percentage shall be the percentage multiplier that was in effect under the terms of the State Retirement System to determine the pension or other retirement allowance of the member under that system for each separate year of service credit that is being transferred to this Retirement System.

The member's State Retirement System Benefit Percentage shall be determined using the percentage multiplier that was in effect for the calculation of the member's pension or other retirement allowance on the last date that member was in the employment of an employer covered by the relevant State Retirement System. Accordingly, and not by way of limitation, increases in the benefit multiplier of a State Retirement System shall not be taken into account for purposes of determining a member's State Retirement System Benefit Percentage if such increases became effective after the date that the member ceased to be employed by an employer under the relevant State Retirement System.

By way of example, a member's State Retirement System Benefit Percentage can be currently located in the following Sections of the Ohio Revised Code:

- (a) PERS Section 45.33(A)(5)(b).
- (b) STRS Section 3307.58(B)(2)(a)(i).
- (c) SERS Section 3309.36(B)(1)(b).
- (d) PFPF Section 742.37(C).

(e) HPRS - Section 5505.17.

If a member previously terminated employment with an employer under a State Retirement System, the member's State Retirement System Benefit Percentage shall be determined based on the similar provisions of the State Retirement System as in effect upon the member's previous termination of employment.

Section 10. That Section 203-35 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-35. - Advanced Early Service Retirement Allowance.

- (a) Any member hired before January 1, 2010 and who has attained age 55 and has 25 or more but less than 30 years of creditable service may retire from active service on a service retirement allowance which shall be the actuarial equivalent, at the member's age at the actual date of retirement, of the service retirement allowance which would have been payable under Section 203-33 had the member attained the age of 60 on said date.
- (b) Any member hired on or after January 1, 2010 and who has attained age 60 and has 25 or more but less than 30 years of creditable service may retire from service on a retirement allowance which shall be the actuarial equivalent, at the member's age at the date of retirement, of the retirement allowance which would have been payable under Section 203-33 had the member attained the age of 65 on said date.

Any member who has attained age 57 and has 15 years of creditable service may retire from active service on an early service retirement allowance which shall be the actuarial equivalent, at the member's age at the actual date of retirement, of the service retirement allowance which would have been payable under Section 203-33 had the member attained eligibility on said date for a service retirement allowance pursuant to the provisions of Section 203-33 applicable to that member.

(c) A member who terminates employment without immediate commencement of a benefit under this section shall not be eligible for a benefit under this section.

In no event shall the service retirement allowance provided herein, exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

Section 11. That Section 203-45 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-45. - Death Benefit in Service.

Upon receipt of proper proof by the board of the death of a member in service, a death benefit shall be paid to such person as the member shall have nominated by written designation duly executed in accordance with the provisions of this section and filed with the board.

- (a) The designation of the beneficiary shall be limited to the following:
 - $\frac{a}{a}$ (i) Spouse.
 - (b) (ii) Children.
 - (e) (iii) Parents.
 - (d) (iv) Niece, nephew, brother, sister, grandparent, grandchild, uncle, aunt, cousin, or member of the decedent's household for at least one year prior to the decedent's death who is dependent upon the decedent for support.
 - (e) (v) The member's estate.
 - (f) (vi) A trustee of a trust established by such member for the benefit of a beneficiary set forth in subsections (ai) through (div) above.
- (b) If there is no such designation, the death benefit shall be paid to:
 - (a) (i) The surviving spouse; or
 - (b) (ii) If there is no surviving spouse then to any surviving minor dependent child or children; or
 - (e) (iii) If there is no surviving spouse or surviving minor dependent child or children, to any person or persons who have been members of the deceased member's household for at least one year prior to the decedent's death and who are dependent upon the decedent for support; if more than one person is eligible to receive the death benefit under the provisions of this paragraph, the death benefit shall be divided among such persons on such basis as the board shall deem proper; or
 - (d) (iv) If there is no surviving spouse, surviving minor dependent child or children or other dependents as described in paragraph (eiii) above then to the decedent's estate.

- (c) The death benefit shall consist of: the return of the deceased member's accumulated contributions.
- (b) A lump sum death benefit equal to 50 percent of the compensation received by the deceased member during the 12 month's immediately preceding death. If, during all or part of the 12 months, the decedent was prevented by illness from receiving compensation, an equivalent preceding period of compensated time shall be added and the death benefit payment shall be calculated on the adjusted basis. For the case of members employed on an hourly, daily or other irregular basis, the board may adopt rules for the payment of the lump sum death benefit on the basis of 50 percent of what the board may determine to be an average year's compensation for the decedent, basing such average on a period of not to exceed five years prior to death. No member appointed an employee on or after January 1, 1961, shall be entitled to the lump sum death benefit provided for in this paragraph until such person has been contributing for at least 18 months.

The death benefit moneys provided hereunder shall be subject to the payment of reasonable funeral and burial expenses; and the board shall be authorized, in any case, to withhold payment of said moneys until such expenses are paid or secured to be paid. The board shall from time to time fix the maximum amount chargeable hereunder as reasonable funeral and burial expenses.

Where the death benefit is payable to the spouse of the decedent, the spouse shall have the option of using the moneys payable hereunder for the purpose of an annuity for such spouse on the same basis established for the purchase of annuities by members.

No person finally adjudged guilty either as a principal or an aider, abettor or procurer of the aggravated murder (ORC 2903.01), the murder (ORC 2903.02), or the voluntary manslaughter (ORC 2903.03) of a member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the member's death. For the purpose of this section, such person shall be considered as having predeceased the member killed.

Section 12. That Section 203-47 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-47. - Retirement Death Benefit.

Upon receipt of proper proof by the board of the death of a member who has retired, a death benefit shall be paid to such person as the member shall have nominated by written designation duly executed in accordance with the provisions of this section and filed with the board.

- (a) Designation of the beneficiary shall be limited to the following:
 - (a) (i) Spouse.

- (b) (ii) Children.
- (e) (iii) Parents.
- (d) (iv) Niece, nephew, brother, sister, grandparent, grandchild, uncle, aunt, cousin, or member of the decedent's household for at least one year prior to the decedent's death who is dependent upon the decedent for support.
- (e) (v) The member's estate.
- (f) (vi) A trustee of a trust established by such member for the benefit of a beneficiary set forth in subsections (a) through (d) above.
- (b) If there is no such designation, the death benefit shall be paid to:
 - $\frac{\text{(a)}}{\text{(i)}}$ The surviving spouse; or
 - (b) (ii) If there is no surviving spouse, then to any surviving minor dependent child or children; or
 - (e) (iii) If there is no surviving spouse or surviving minor dependent child or children, to any person or persons who have been members of the deceased member's household for at least one year prior to the decedent's death and who are dependent upon the decedent for support; if more than one person is eligible to receive the retirement death benefit under the provisions of this paragraph, the retirement death benefit shall be divided among such persons on such basis as the board shall deem proper; or
 - (d) (iv) If there is no surviving spouse, surviving minor dependent child or children or other dependents as described in paragraph (c) above, then to the decedent's estate.
- (c) The retirement death benefit shall consist of:
 - (a) (i) A lump sum death benefit of \$7,500 5,000 for all members in Group A, B. Members in Groups C, D, E, F and G shall not receive a lump sum death benefit.
 - (b) (ii) In the case of a member who did not select Option 1, Option 2, Option 3 or Option 4 pursuant to Section 203-63:
 - (i) (A) such member's accumulated contributions at date of retirement, plus
 - (ii) (B) the amount, if any, paid by such member in accordance with Sections 203-7(c), 203-7-A, 203-8, 203-27A and 203-29(c), but only to the extent not credited to the accumulated contributions of the member at the time of payment, minus

(iii) (C) all amounts paid by reason of said member's retirement.

The death benefit moneys provided hereunder may be assigned to a third party for payment of funeral and burial expenses, provided that the person otherwise authorized to receive the death benefit has executed a written assignment indicating his/her intent to use a portion of the death benefit for such purpose.

No person finally adjudged guilty either as a principal or an aider, abettor or procurer of the aggravated murder (ORC 2903.01), the murder (ORC 2903.02), or the voluntary manslaughter (ORC 2903.03) of a member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the member's death. For the purpose of this section, such person shall be considered as having predeceased the member killed.

Section 13. That Section 203-56 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-56. - Cost-of-Living Adjustments.

For all benefit recipients, other than those receiving benefits under the terms of Section 203-49, the amount of their benefits will be increased, effective in 1999 on the anniversary of their original benefit increase date. For recipients who began receiving benefits prior to January 1, 1983, the increase under this section will be equal to the difference between the recipient's 1999 benefit amount and the benefit amount that would have been paid in 1999 had a three (3) percent compounded annually cost-of-living adjustment been paid beginning in 1983. For recipients who began receiving benefits on or after January 1, 1983, and up to December 31, 1998, the increase under this section will be equal to the difference between the recipient's 1999 benefit amount and the benefit amount that would have been paid in 1999 had a three (3) percent compounded annually cost-of-living adjustment been paid beginning two (2) years after the individual's original benefit increase date. The increase granted herein will be permanent and all future cost of living adjustments will be calculated using the new higher amount as the benefit base.

Commencing on January 1, 1999, for All retirees members and benefit recipients in Groups A, B and C and the beneficiaries thereof entitled to benefits pursuant to Section 203-63, other than those receiving benefits under the terms of Section 203-49, there shall be receive an annual cost-of-living adjustment to their benefit amount which adjustment shall be three (3) percent per year compounded annually. For benefit recipients who begin receiving benefits on or after January 1, 1998, the cost-of-living adjustment will commence one year after the initial receipt of benefits.

All retirees in Groups D, E, F and G and the beneficiaries thereof entitled to benefits pursuant to Section 203-63, shall receive an annual cost-of-living adjustment to their benefit amount which adjustment shall be indexed to the CPI-U but shall not exceed two (2) percent per year. The annual cost-of-living adjustment shall not compound annually.

This cost-of-living adjustment will commence one year after the initial receipt of benefits.

The total retirement allowance including the adjustments payable herein shall not exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

Section 14. That Section 203-111 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-111. - Loans to Members.

On and after July 1, 1967 and until September 28, 2010, loans may be made to any member who has had at least three years of service as a member. Effective September 29, 2010, no new retirement loan applications will be accepted or approved by the Cincinnati Retirement System.

The aggregate amount of loans outstanding to any member shall never exceed the lesser of the following amounts:

- (a) 50 percent of the amount of the member's accumulated contributions.
- (b) An amount which, together with interest thereon, can be repaid prior to the member's 65th birthday by deduction from the member's compensation at the rate of 20 percent of the compensation.
- (c) \$50,000, reduced by the highest outstanding balance of loans made to the member under this retirement system during the one year period preceding the date of the loan.

The interest rate on loans shall be a per annum rate to be set by the board from time to time, which rate shall cover the loan insurance established under Section 203-113. The principal amount, together with the interest, shall be repaid to the retirement system in equal installments payable at least quarterly over a repayment period that does not exceed:

- (1) For a loan which is used to acquire a dwelling unit which, within a reasonable period of time, is to be used as the principal residence of the member, the repayment period may not exceed 15 years; and
- (2) For all other loans, five years.

Loan repayments shall be made by deduction from the compensation of the member at the same time and in the same manner the member's contributions to the retirement system are deducted. Such installments shall be at least equal to 5 percent of the member's compensation, and not in excess of 20 percent.

Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this chapter applies or shall apply, the additional deductions required to repay the loan shall be made.

If said member has a retirement loan outstanding at the time of leaving service, the loan shall be paid in full prior to reaching age 65, or within one year of leaving city service, whichever comes first. If loan repayment is not made as stipulated herein, the following options exist:

- (i) the member can have the balance of contributions refunded directly as specified in Section 203-57;
- (ii) the member can have the balance of contributions rolled over into another qualifying plan, including the Public Employees Retirement System as specified in Section 203-59;
- a member hired before January 1, 2010 having at least 25 years of service and being at least age 55, can take a reduced retirement as specified in Section 203-35(a); a member hired on or after January 1, 2010 having at least 25 years of service and being at least age 60 can take a reduced retirement as specified in Section 203-35(b).

Application for retirement shall be made before the member leaves the service or within one year thereafter, except application may be made after said one year with the approval of the board of trustees.

No member or former member who has an outstanding loan shall be permitted to transfer service credit to a State Retirement System under Section 203-8 unless and until such loan is repaid in full, with interest.

The board of trustees of the retirement system shall promulgate rules and regulations consistent with the provisions of this chapter governing the making of loans to members; and if the principal amount of a loan will exceed \$7,500.00 and the member is married at the time of the loan, the loan will not be made unless the spouse of the member provides a written consent to the loan, on a form or forms provided by the board of trustees for such purpose.

Section 15. That Section 203-119 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-119. - Minimum Distribution Requirements of IRC Section 401(a)(9).

(a) It is intended that the provisions of the Retirement System comply with a good faith interpretation of the requirements of IRC Section 401(a)(9) as applicable to a governmental plan within the meaning of IRC Section 414(d). Accordingly, the board shall apply the provisions of this section in any manner that the board deems necessary or desirable to assure compliance with such requirements.

(b) Payment of the retirement allowance of each member must begin by the member's required beginning date and, except as provided below, will be made in non-increasing monthly amounts either (a) for the life of the member or for the joint lives of the member and a beneficiary, or (b) for the life of the member with a stated period certain not to exceed the life expectancy of the member or the joint life expectancy of the member and the member's beneficiary. Notwithstanding the foregoing, lump sum payments of accumulated contributions may be made to members and increases in the retirement allowances of members may be made as provided in Section 203-39 and 203-56. Any stated period certain for the payment of a retirement allowance hereunder may not be lengthened after the commencement date of the retirement allowance.

Optional forms of retirement allowances provided under Section 203-63 are subject to the minimum incidental benefit payment restrictions of IRC Section 401(a)(9)(G). Accordingly, if a retired member elects an optional form of payment under Section 203-63 and names a beneficiary other than the spouse of the member, the board shall limit the percentage of the member's retirement allowance that may be paid to the beneficiary to the extent required to assure compliance with such requirements.

If a member dies on or after his or her required beginning date, payments to the beneficiary of the member shall continue to be made over the life or life expectancy of the beneficiary at a rate that is at least as rapid as that in effect before the member's death.

For purposes of this section the "Required Beginning Date" of a member is the first day of April of the calendar year following the calendar year in which the member attains age 70-1/2 or retires, whichever is later.

For the requirements of this section, life expectancies will be calculated as of the commencement date of the retirement allowance by use of the expected return multiples in Tables V and VI of IRS Regulation 1.72-9, and will not be recalculated thereafter.

(c) If a member dies before his or her required beginning date, any lump sum death benefits payable under this Retirement System shall be paid by December 31 of the calendar year containing the fifth anniversary of the member's death; and any annuity benefits payable on account of the member's death shall be paid in accordance with this division (c).

If an annuity benefit is payable to a beneficiary other than the member's spouse, the annuity shall be paid over the life of the beneficiary or over a period certain not to be greater than the life expectancy of the beneficiary, and shall commence on or before December 31 of the calendar year immediately following the calendar year in which the member died.

If an annuity benefit is payable to the member's surviving spouse, the annuity shall be paid over the life of the spouse or over a period certain not greater than the life expectancy of the spouse, and shall commence by the later of (1) December 31 of the calendar year immediately following the calendar year in which the member died, and (2) December 31 of the calendar year in which the

member would have attained age 70 1/2.

(d) Payments made under an annuity contract purchased by the Retirement System to provide any retirement allowance or other benefit will also comply with the requirements of this section and IRC Section 401(a)(9).

Section 16. That Section 203-125 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-125. - Total Retirement Benefits Arrangement.

- (a) As used in this section:
 - (4<u>i</u>) "Total benefits" shall mean the total <u>service</u> retirement allowance or disability allowance benefit that is payable to a restricted retired member in accordance with the provisions of this section.
 - (2<u>ii</u>) "Restricted retired member" shall mean a retired member whose <u>service</u> retirement allowance or disability allowance must be limited to comply with the requirements of IRC Section 415, as provided in Section 203-123.
- (b) This section establishes the City of Cincinnati Total Retirement Benefits Arrangement (referred to herein as the "Arrangement"). The arrangement is intended to be an arrangement described in IRC Section 415(m)(3). The sole purpose of the arrangement is to provide total benefits to restricted retired members under an arrangement that meets the requirements of IRC Section 415(m)(3).
- (c) The board shall administer the arrangement. The board may utilize its employees and property and the employees of and property of the city in the administration of the arrangement, without charge to the funds of the arrangement. The board shall have all of the powers that are granted to the board under Chapter 203 and other pertinent provisions of the Cincinnati Municipal Code.
- (d) Total benefits shall be payable to a restricted retired member for the calendar year in which this Arrangement is adopted and for each subsequent calendar year. Payments of total benefits shall be made at times determined by the board; provided, however, that all total benefit payments attributable to any calendar year shall be paid by not later than the end of the such calendar year.

The amount of a restricted retired member's total benefits that are payable for a calendar year shall be equal to the difference between (i) the <u>service</u> retirement allowance or disability allowance of the restricted retired member that would be payable under the Retirement System during such calendar year, without considering the application of IRC Section 415, as provided in Section 203-123, and (ii) the <u>service</u> retirement allowance or disability allowance of the restricted retired member that is actually payable to the

restricted retired member during such calendar year after it has been reduced to comply with the requirements of IRC Section 415, as provided in Section 203-123.

(e) The city shall provide funds to the board to the extent required to provide for the payment of the total benefits under the arrangement. The board shall hold all such contributions from the city in a trust known as the total benefits arrangement trust fund. The total benefit arrangement trust fund is separate from the trust fund otherwise maintained by the board for the Retirement System. The total benefits arrangement trust fund shall be a grantor trust of which the city is grantor. The sole source of funding for payments of total benefits shall be the assets of the total benefits arrangement trust fund. No other funds held by the board shall be used for such purposes. Funds held in total benefits arrangement trust fund must be used solely for purposes of paying total benefits under the arrangement; provided, however, that any such funds held in such trust shall continue to be subject to the claims of the general creditors of the city.

Assets held in the total benefits arrangement trust fund shall be held, managed, and invested by the board in accordance with the provisions of Sections 203-65 and 203-66.

The city shall provide funds to the board for the purpose of funding the arrangement in such amounts as the city shall, in its sole discretion, from time to time deem appropriate; provided, however, that at the beginning of each calendar year, the board shall estimate the total amount of total benefits to be paid during the calendar year, the amount of funds held in the total benefits arrangement trust fund that can be used for purposes of paying total benefits, and advise the city of its estimate of any additional city contributions which will be required to provide for the payment of total benefits during such calendar year. From time to time during each calendar year, the board may revise its estimate and notify the city of its revisions thereto.

Section 17. That Section 203-129 of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 203-129. - IRC Termination Requirements.

A member will be fully vested in a retirement benefit upon attainment of the retirement system's age and service requirements for a normal retirement benefit. In the event of a termination of the retirement system or the complete discontinuance of contributions to the retirement system, each member shall have a vested right to a <u>service</u> retirement allowance, to the extent that the funds of the retirement system are available to provide for such <u>service</u> retirement allowances. The foregoing provisions of this section are intended to comply with the requirements of Section 401(a)(7) of the IRC, as in effect on September 1, 1974, and shall be construed and administered accordingly. In addition, the foregoing provisions of this section are intended to supplement any right to benefits that a member otherwise may have under applicable law. Accordingly, no member shall have a vested or otherwise nonforfeitable right to a <u>service</u> retirement allowance that is less than the member otherwise is entitled to under applicable law.

Section 21. That existing Sections 203-1-A3, 203-1-M1, 203-8, 203-11, 203-19, 203-27A, 203-33, 203-35, 203-45, 203-47. 203-56, 203-111, 203-119, 203-125, and 203-129 are hereby repealed.

Section 22. That Sections 203-1-R2 - Retirement Allowance and 203-39 - Post-Retirement Adjustments are hereby repealed in their entirety.

Section 23. That this ordinance shall take effect and be in force from and after July 1, 2011.

Passed:

, 201

Attest:

Clerk

WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 3-29-25//

Mayor

CLERK OF COUNCIL